

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JENNIFER PIGGOTT AND SLADE)
PIGGOTT,)
)
Plaintiffs,)
)
v.)
)
GRAY CONSTRUCTION, INC. ,)
)
Defendant/ Third-party plaintiff,)
)
v.)
)
COOPER’S STEEL FABRICATORS,)
INC., ALL-SOUTH SUBCONTRACTORS,)
FREELAND-HARRIS CONSULTING)
ENGINEERS OF KENTUCKY, INC.,)
FREELAND HARRIS CONSULTING)
ENGINEERS OF GEORGIA, INC., THE)
HARDY CORPORATION, LATTA)
PLUBING & CONSTRUCTION CO, INC.,)
HWASHIN AMERICA CORPORATION)
and FIRESTONE BUILDING PRODUCTS)
COMPANY, LLC,)
)
Third-party defendants.)

**CIVIL ACTION NUMBER:
2:06-cv-01158-MEF**

**MOTION TO DISMISS GRAY CONSTRUCTION, INC.’S FIRST AMENDED THIRD-
PARTY COMPLAINT**

Comes Now, Third-Party Defendant, Firestone Building Products Company, LLC (“FBP”) and moves pursuant to Rule 12(b)(6) to dismiss FBP. As grounds therefore, Firestone states as follows:

Alabama law does not recognize a common law claim to indemnity, as plead in Gray Construction, Inc.’s First Amended Third-Party Complaint.

FBP adopts and incorporates by reference, as though fully set forth herein, its Motion to Dismiss Third-Party Complaint (Doc 57), and all briefs in support thereof.

s/ Hope T. Cannon

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CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None

Respectfully submitted,

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